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CHAMBER ACTION

1 The Colleges & Universities Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to higher education finance; amending s.
7 1009.21, F.S.; revising provisions relating to
8 determination of resident status for tuition purposes;
9 revising definitions; updating obsolete terminology;
10 providing for reclassification under certain
11 circumstances; classifying as residents for tuition
12 purposes certain employees of international multilateral
13 organizations; providing eligibility criteria for certain
14 students who are not permanent residents of the United
15 States for exemption from payment of nonresident tuition;
16 limiting enrollment; requiring the Department of Education
17 to administer the exemption program; reenacting s.
18 1009.40(1)(a), F.S., relating to general requirements for
19 student eligibility for state financial aid, to
20 incorporate the amendment to s. 1009.21, F.S., in a
21 reference thereto; requiring a study and report by the
22 Office of Program Policy Analysis and Government

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Accountability; providing for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1009.21, Florida Statutes, is amended to read:

1009.21 Determination of resident status for tuition purposes; exemption.--Students shall be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities.

(1) As used in this section, the term:

(a) ~~The term~~ "Dependent child" means any person, whether or not living with his or her parent, who is eligible to be claimed by his or her parent as a dependent under the federal income tax code.

(b) "Initial enrollment" means the first day of class.

~~(c)(b)~~ ~~The term~~ "Institution of higher education" means any public community college or state university.

~~(d)(e)~~ A "Legal resident" or "resident" means ~~is~~ a person who has maintained his or her residence in this state for the preceding year, has purchased a home which is occupied by him or her as his or her residence, or has established a domicile in this state pursuant to s. 222.17.

(e) "Nonresident for tuition purposes" means a person who does not qualify for the in-state tuition rate.

~~(f)(d)~~ ~~The term~~ "Parent" means the natural or adoptive parent or legal guardian of a dependent child.

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(g)(e) A "Resident for tuition purposes" means ~~is~~ a person who qualifies as provided in subsection (2) for the in-state tuition rate; ~~a "nonresident for tuition purposes" is a person who does not qualify for the in-state tuition rate.~~

(2)(a) To qualify as a resident for tuition purposes:

1. A person or, if that person is a dependent child, his or her parent or parents must have established legal residence in this state and must have maintained legal residence in this state for at least 12 months immediately prior to his or her initial enrollment in a postsecondary education program in this state ~~qualification~~.

2. Every applicant for admission to an institution of higher education shall be required to make a statement as to his or her length of residence in the state and, further, shall establish that his or her presence or, if the applicant is a dependent child, the presence of his or her parent or parents in the state currently is, and during the requisite 12-month qualifying period was, for the purpose of maintaining a bona fide domicile, rather than for the purpose of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

(b) However, with respect to a dependent child living with an adult relative other than the child's parent, such child may qualify as a resident for tuition purposes if the adult relative is a legal resident who has maintained legal residence in this state for at least 12 months immediately prior to the child's initial enrollment in a postsecondary education program in this state ~~qualification~~, provided the child has resided continuously

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79 | with such relative for the 5 years immediately prior to the
80 | child's initial enrollment ~~qualification~~, during which time the
81 | adult relative has exercised day-to-day care, supervision, and
82 | control of the child.

83 | (c) The legal residence of a dependent child whose parents
84 | are divorced, separated, or otherwise living apart will be
85 | deemed to be this state if either parent is a legal resident of
86 | this state, regardless of which parent is entitled to claim, and
87 | does in fact claim, the minor as a dependent pursuant to federal
88 | individual income tax provisions.

89 | (d) A person who is classified as a nonresident for
90 | tuition purposes may become eligible for reclassification as a
91 | resident for tuition purposes if that person or, if that person
92 | is a dependent child, his or her parent presents documentation
93 | that supports permanent residency in this state rather than
94 | temporary residency for the purpose of pursuing an education,
95 | such as documentation of full-time permanent employment for the
96 | previous 12 months or the purchase of a home in this state and
97 | residence therein for the prior 12 months.

98 | (3) An individual shall not be classified as a resident
99 | for tuition purposes and, thus, shall not be eligible to receive
100 | the in-state tuition rate until he or she has provided such
101 | evidence related to legal residence and its duration as may be
102 | required by officials of the institution of higher education
103 | from which he or she seeks the in-state tuition rate.

104 | (4) With respect to a dependent child, the legal residence
105 | of such individual's parent or parents is prima facie evidence
106 | of the individual's legal residence, which evidence may be

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reinforced or rebutted, relative to the age and general circumstances of the individual, by the other evidence of legal residence required of or presented by the individual. However, the legal residence of an individual whose parent or parents are domiciled outside this state is not prima facie evidence of the individual's legal residence if that individual has lived in this state for 5 consecutive years prior to enrolling or reregistering at the institution of higher education at which resident status for tuition purposes is sought.

(5) In making a domiciliary determination related to the classification of a person as a resident or nonresident for tuition purposes, the domicile of a married person, irrespective of sex, shall be determined, as in the case of an unmarried person, by reference to all relevant evidence of domiciliary intent. For the purposes of this section:

(a) A person shall not be precluded from establishing or maintaining legal residence in this state and subsequently qualifying or continuing to qualify as a resident for tuition purposes solely by reason of marriage to a person domiciled outside this state, even when that person's spouse continues to be domiciled outside of this state, provided such person maintains his or her legal residence in this state.

(b) A person shall not be deemed to have established or maintained a legal residence in this state and subsequently to have qualified or continued to qualify as a resident for tuition purposes solely by reason of marriage to a person domiciled in this state.

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134 (c) In determining the domicile of a married person,
135 irrespective of sex, the fact of the marriage and the place of
136 domicile of such person's spouse shall be deemed relevant
137 evidence to be considered in ascertaining domiciliary intent.

138 (6) Any nonresident person, irrespective of sex, who
139 marries a legal resident of this state or marries a person who
140 later becomes a legal resident may, upon becoming a legal
141 resident of this state, accede to the benefit of the spouse's
142 immediately precedent duration as a legal resident for purposes
143 of satisfying the 12-month durational requirement of this
144 section.

145 (7) A person shall not lose his or her resident status for
146 tuition purposes solely by reason of serving, or, if such person
147 is a dependent child, by reason of his or her parent's or
148 parents' serving, in the Armed Forces outside this state.

149 (8) A person who has been properly classified as a
150 resident for tuition purposes but who, while enrolled in an
151 institution of higher education in this state, loses his or her
152 resident tuition status because the person or, if he or she is a
153 dependent child, the person's parent or parents establish
154 domicile or legal residence elsewhere shall continue to enjoy
155 the in-state tuition rate for a statutory grace period, which
156 period shall be measured from the date on which the
157 circumstances arose that culminated in the loss of resident
158 tuition status and shall continue for 12 months. However, if the
159 12-month grace period ends during a semester or academic term
160 for which such former resident is enrolled, such grace period
161 shall be extended to the end of that semester or academic term.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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(9) Any person who ceases to be enrolled at or who graduates from an institution of higher education while classified as a resident for tuition purposes and who subsequently abandons his or her domicile in this state shall be permitted to reenroll at an institution of higher education in this state as a resident for tuition purposes without the necessity of meeting the 12-month durational requirement of this section if that person has reestablished his or her domicile in this state within 12 months of such abandonment and continuously maintains the reestablished domicile during the period of enrollment. The benefit of this subsection shall not be accorded more than once to any one person.

(10) The following persons shall be classified as residents for tuition purposes:

(a) Active duty members of the Armed Services of the United States residing or stationed in this state, their spouses~~7~~, and dependent children, and active members of the Florida National Guard who qualify under s. 250.10(7) and (8) for the tuition assistance program.

(b) Active duty members of the Armed Services of the United States, and their spouses and dependent children, ~~dependents~~ attending a public community college or state university within 50 miles of the military establishment where they are stationed, if such military establishment is within a county contiguous to Florida.

(c) United States citizens living on the Isthmus of Panama, who have completed 12 consecutive months of college work

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189 at the Florida State University Panama Canal Branch, and their
190 spouses and dependent children.

191 (d) Full-time instructional and administrative personnel
192 employed by state public schools, community colleges, and
193 institutions of higher education, as defined in s. 1000.04, and
194 their spouses and dependent children.

195 (e) Students from Latin America and the Caribbean who
196 receive scholarships from the federal or state government. Any
197 student classified pursuant to this paragraph shall attend, on a
198 full-time basis, a Florida institution of higher education.

199 (f) Southern Regional Education Board's Academic Common
200 Market graduate students attending Florida's state universities.

201 (g) Full-time employees of state agencies or political
202 subdivisions of the state when the student fees are paid by the
203 state agency or political subdivision for the purpose of job-
204 related law enforcement or corrections training.

205 (h) McKnight Doctoral Fellows and Finalists who are United
206 States citizens.

207 (i) United States citizens living outside the United
208 States who are teaching at a Department of Defense Dependent
209 School or in an American International School and who enroll in
210 a graduate level education program which leads to a Florida
211 teaching certificate.

212 (j) Active duty members of the Canadian military residing
213 or stationed in this state under the North American Aerospace
214 Defense Command ~~Air Defense~~ (NORAD) agreement, and their spouses
215 and dependent children, attending a community college or state

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216 university within 50 miles of the military establishment where
217 they are stationed.

218 (k) Active duty members of a foreign nation's military who
219 are serving as liaison officers and are residing or stationed in
220 this state, and their spouses and dependent children, attending
221 a community college or state university within 50 miles of the
222 military establishment where the foreign liaison officer is
223 stationed.

224 (l) Full-time employees of international multilateral
225 organizations based in Florida that are recognized by the United
226 States Department of State and their spouses and dependent
227 children.

228 (11) A student, other than a nonimmigrant alien within the
229 meaning of 8 U.S.C. s. 1101(a)(15), who meets all of the
230 following requirements may apply for an exemption from paying
231 nonresident tuition at community colleges and state
232 universities:

233 (a) The student has resided in Florida with a parent, as
234 defined in paragraph (1)(f), for at least 3 consecutive years
235 immediately preceding the date the student received a high
236 school diploma or its equivalent and has attended a Florida high
237 school for at least 3 consecutive school years during such time.

238 (b) The student has registered and enrolled in a community
239 college or a state university. The student may apply for a term
240 deferral of any out-of-state fee assessed by the institution
241 until eligibility for the exemption is determined.

242 (c) The student has provided the community college or
243 state university an affidavit stating that the student will file

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an application to become a permanent resident of the United States at the earliest opportunity he or she is eligible to do so.

(d) The student has submitted an application for the exemption to the community college or state university in the manner prescribed by the Department of Education.

The exemption authorized pursuant to this subsection shall be limited to the top 2,000 students in academic performance in Florida high schools who register and enroll at a community college or state university under the exemption. The Department of Education shall administer the exemption program and shall develop an application form and guidelines for student participation. The community college or state university shall enter all application criteria submitted by the student into the department's online database, in the manner and timeframe prescribed by the department, for final determination by the department of the student's eligibility to receive the exemption.

(12)~~(11)~~ The State Board of Education shall by rule designate classifications of students as residents or nonresidents for tuition purposes at community colleges and state universities.

Section 2. For the purpose of incorporating the amendment to section 1009.21, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 1009.40, Florida Statutes, is reenacted to read:

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1009.40 General requirements for student eligibility for
state financial aid.--

(1)(a) The general requirements for eligibility of
students for state financial aid awards consist of the
following:

1. Achievement of the academic requirements of and
acceptance at a state university or community college; a nursing
diploma school approved by the Florida Board of Nursing; a
Florida college, university, or community college which is
accredited by an accrediting agency recognized by the State
Board of Education; any Florida institution the credits of which
are acceptable for transfer to state universities; any career
center; or any private career institution accredited by an
accrediting agency recognized by the State Board of Education.

2. Residency in this state for no less than 1 year
preceding the award of aid for a program established pursuant to
s. 1009.50, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54, s.
1009.56, s. 1009.57, s. 1009.60, s. 1009.62, s. 1009.63, s.
1009.68, s. 1009.72, s. 1009.73, s. 1009.76, s. 1009.77, or s.
1009.89. Residency in this state must be for purposes other than
to obtain an education. Resident status for purposes of
receiving state financial aid awards shall be determined in the
same manner as resident status for tuition purposes pursuant to
s. 1009.21 and rules of the State Board of Education.

3. Submission of certification attesting to the accuracy,
completeness, and correctness of information provided to
demonstrate a student's eligibility to receive state financial
aid awards. Falsification of such information shall result in

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the denial of any pending application and revocation of any award currently held to the extent that no further payments shall be made. Additionally, students who knowingly make false statements in order to receive state financial aid awards shall be guilty of a misdemeanor of the second degree subject to the provisions of s. 837.06 and shall be required to return all state financial aid awards wrongfully obtained.

Section 3. The Office of Program Policy Analysis and Government Accountability shall conduct a study to examine how each state university supports students in making timely progress toward the completion of the student's degree. The study shall also evaluate the effectiveness of each state university's system, assess the cost of implementing a universal tracking degree audit system, and assess what savings would be accrued from such a system. A report of the results of the study shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006.

Section 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 5. This act shall take effect July 1, 2005.